

Before The  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of

Amendment of the Commission's  
Rules with Regard to the 3650-3700  
MHz Government Transfer Band

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

ET Docket No. 98-237

To: The Commission

**COMMENTS OF PETROLEUM COMMUNICATIONS, INC.**

Petroleum Communications, Inc. ("PetroCom"), by its attorneys, hereby submits the following comments in response to the Commission's Notice of Proposed Rule Making and Order that was adopted on December 17, 1998.<sup>1</sup>

1. PetroCom, through its subsidiary PetroCom License Corporation, is the provider of wireless services in the Gulf of Mexico ("Gulf") and has a direct interest in the Commission's licensing decisions that affect that region. PetroCom provides fixed and mobile wireless services to companies in the oil and gas industry in the Gulf.

2. In the NPRM the Commission requests comment regarding the number and geographic size of the licenses to be offered in the 3650-3700 MHz band.<sup>2</sup> The Commission

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<sup>1</sup> In the Matter of amendment of the Commission's In the Matter of Amendment of the Commission's Rules with Regard to the 3650-3700 MHz Government Transfer Band, ET Docket No. 98-237, Notice of Proposed Rulemaking and Order, FCC 98-237 (rel. Dec. 18, 1998) [hereinafter NPRM].

<sup>2</sup> NPRM at ¶ 10.

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intends that this spectrum be used to provide a broad range of new fixed services.<sup>3</sup> For this reason, PetroCom proposes that the spectrum be divided into at least two equal blocks of spectrum to ensure that there are at least two competitors in each market. This approach is consistent with all of the previous auctions of spectrum by the Commission. Further, it is consistent with the goal of the Commission's auction system to promote competition and access to new technologies by the public by avoiding excessive concentration of spectrum.<sup>4</sup> Finally, in order to ensure that the American public receives the benefit of competition from licensees in this spectrum, the Commission should carefully study the economic data submitted by other commenters in this proceeding. If insufficient data is received, the Commission should instruct its staff economists to carefully study the competition issue and prepare a report for consideration by the Commission.

3. Regarding the geographic scope of each license, the nature of the services envisioned for this spectrum makes it imperative that licenses in the 3650-3700 MHz band be issued on a nationwide basis, or at the very least, on a large regional basis. In order for a licensee to be able to quickly become competitive with established fixed service licensees, a 3650-3700 MHz band licensee must be able to control the development of a system over a wide area and not have to rely on several contiguous licensees to offer a regional presence to potential customers.

4. However, the Commission should exclude licensing the 3650-3700 MHz band in the Gulf of Mexico at this time and determine its feasibility in a separate proceeding. The Commission has recognized that the Gulf is a unique environment and has typically handled

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<sup>3</sup> NPRM at ¶ 1.

<sup>4</sup> 47 U.S.C. § 309(j)(3)(B).

licensing in the Gulf in proceedings separate from licensing services on land.<sup>5</sup> Therefore, it would be arbitrary and capricious for the Commission to simply subject the Gulf to competitive bidding without taking into account the traditionally unique licensing environment in the Gulf.

5. The 3650-3700 MHz band is currently occupied by government radar operations and non-government intercontinental fixed satellite service ("FSS") licensees. PetroCom agrees with the Commission that existing FSS facilities should be grandfathered.<sup>6</sup> Further, PetroCom concurs that government operations in the radiolocation service should be grandfathered at Pascagoula, MS; Pensacola, FL; and Saint Inigoes, MD.<sup>7</sup>

6. With respect to government operations, the Commission also proposes to permit high-powered government mobile radar systems to continue to operate in the adjacent 3300-3650

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<sup>5</sup> See, e.g., In the Matter of Cellular Service and Other Commercial Mobile Radio Services in the Gulf of Mexico, Amendment of Part 22 of the Commission's Rules to Provide for Filing and Processing of Applications for Unserved Areas in the Cellular Service and to Modify Other Cellular Rules, WT Docket No. 97-112, CC Docket No. 90-6, Second Further Notice of Proposed Rulemaking, 12 FCC Rcd at 4576 (1997) (Cellular licensing in Gulf treated separately from land-based licensing); see also In the Matter of Amendment of Parts 21 and 74 of the Commission's Rules With Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service and Implementation of Section 309 (j) of the Communications Act - Competitive Bidding, MM Docket No. 94-131 and PP Docket No. 92-253, Report and Order, 10 FCC Rcd 9589 (1995) (Gulf of Mexico not included in MDS rulemaking); In the Matter of Rulemaking to Amend Parts 1, 2, 21, and 25 Of the Commission's Rules to Redesignate The 27.5-29.5 GHz Frequency Band, To Reallocate the 29.5-30.0 GHz Frequency Band, To Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services Petitions for Reconsideration of the Denial of Applications for Waiver of the Commission's Common Carrier Point-to-Point Microwave Radio Service Rules, CC Docket No. 92-297, Suite 12 Group Petition for Pioneer Preference, PP-22, Second Report and Order, Order on Reconsideration, and Fifth Notice of Proposed Rulemaking, 12 FCC Rcd 12545 (1997) (Gulf of Mexico not included in LMDS rulemaking).

<sup>6</sup> NPRM at ¶ 2.

<sup>7</sup> NPRM at ¶ 16.

MHz band and to permit naval vessels to continue to transmit in the 3650-3700 MHz band.<sup>8</sup> In order to ensure that these critically important government operations continue to operate without interference, PetroCom suggests that all technical rules be carefully studied to ensure that operations in the 3650-3700 MHz band will not cause interference to operations in the adjacent 3300-3650 MHz band. Further, licensees in the 3650-3700 MHz band should be required to coordinate construction of their system with the military by submitting site specific technical data to the Commission and the appropriate military agency at least 90 days prior to construction. The military agency would have 90 days to conduct an interference analysis data and issue to the Commission either a letter of no objection or a letter of objection to the construction of the site. If the military agency objects to construction of the site, then the licensee could: (1) attempt to modify the parameters of the site to satisfy the objection, (2) move the site, or (3) petition the Commission to over-rule the military agency.

7. With respect to naval operations, the Commission proposes to prohibit a naval vessel from transmitting in the 3650-3700 MHz band until such vessel is a certain distance from the coast.<sup>9</sup> The NPRM indicates that the Commission and the National Telecommunications and Information Administration are trying to determine the appropriate distance to insert into the final rule.<sup>10</sup> Considering the importance of naval operations to the security of the country, PetroCom proposes that this distance be set at no more than three nautical miles. This distance will give

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<sup>8</sup> NPRM at ¶¶ 11, 16.

<sup>9</sup> NPRM at ¶ 16.

<sup>10</sup> NPRM at n.40.

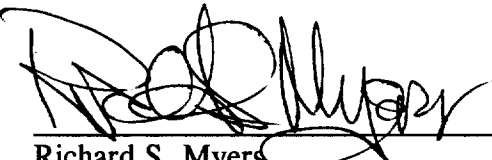
3650-3700 MHz licensees the opportunity to design their system to serve resort beach areas without impeding the vital operations of the United States Navy. The potentially adverse effects on critical naval operations provides a compelling independent reason for not licensing the 3650-3700 MHz band in the Gulf at this time.

8. In conclusion, PetroCom respectfully suggests that the Commission license at least two nationwide blocks of spectrum in the 3650-3700 MHz band. In addition, the Commission should ensure that operations in the 3650-3700 MHz band not interfere with grandfathered FSS commercial operations and more importantly, not interfere with government radiolocation operations in both the 3650-3700 MHz band and the adjacent 3300-3650 MHz band. The Commission should defer licensing the 3650-3700 MHz band in the Gulf of Mexico.

Respectfully submitted,

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